FISCAL NOTE

Bill #:	SB 276	**Title:**	Revise taxes on bentonite
Primary Sponsor:	Keith Bales	**Status:**	As Amended in Senate Committee

Sponsor signature Date David Ewer, Budget Director Date

Fiscal Summary

	FY 2006 Difference	FY 2007 Difference
Expenditures:		
General Fund	($700)	($263,400)
Revenue:		
General Fund	($244,534)	($241,139)
State Special Revenue	($41)	($1,381)
Net Impact on General Fund Balance:	($243,834)	$22,261

- ☒ Significant Local Gov. Impact
- ☐ Included in the Executive Budget
- ☐ Dedicated Revenue Form Attached
- ☒ Technical Concerns
- ☒ Significant Long-Term Impacts
- ☐ Needs to be included in HB 2

Fiscal Analysis

ASSUMPTIONS:

Department of Revenue

1. The net proceeds of miscellaneous mines, including bentonite mines, are subject to property taxation. Net proceeds for a mine are calculated by subtracting statutorily defined production costs from the gross value of the product of the mine. The taxable value is defined as 100% of the net proceeds. The tax is calculated by multiplying the consolidated mill levy of all taxing jurisdictions in which the mine is located by the taxable value. Currently, the consolidated mill levy includes all local mills and the statewide 101 education mills.
2. The royalties paid to state and federal government entities and to Indian tribes are exempt from property taxation. All other royalties are taxed on the same basis as the net proceeds of the mines. The taxable value is defined as 100% of the taxable royalties. The tax is calculated by multiplying the consolidated mill levy by the taxable value. This tax is assessed to the royalty owners.
3. This legislation would replace the net proceeds tax on bentonite with a production tax. Bentonite production would be taxed on the wet ton. A wet ton of bentonite is a ton of bentonite measured before crushing and drying. Proposed law tax rates are described in the chart below.

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Bentonite Production Tax Schedule

Production Per Mine	Increment	Tax per Ton
First 20,000 Wet Tons	20,000 Tons	$0.00
20,001 to 100,000 Tons	80,000 Tons	$1.56
100,001 to 250,000 Tons	150,000 Tons	$1.50
250,001 to 500,000 Tons	250,000 Tons	$1.40
500,001 to 1,000,000 Tons	500,000 Tons	$1.25
Excess of 1,000,000 Tons	Unlimited	$1.00

4. The production tax would be apportioned among taxing entities as described in 5, 6, and 7.
5. Under proposed law, for mines that first began producing bentonite after December 31, 2004;
   (i) 1.3% is distributed to the state special revenue fund to replace the 6 state university mills,
   (ii) 20.75% is distributed to the state general fund to replace the 95 county equalization mills,
   (iii) 77.95% is distributed to the producing county, to be distributed in proportion to current fiscal year mill levies, excepting the 101 statewide education mills.
6. Under proposed law, for mines that produced bentonite before January 1, 2005, and on production occurring in CY 2005;
   (i) 2.33% is distributed to the state special revenue fund to replace the 6 state university mills,
   (ii) 18.14% is distributed to the state general fund to replace the 95 county equalization mills,
   (iii) 3.35% is distributed to Carbon County to be distributed in proportion to mill levies in the taxing jurisdictions in which production occurs, excepting the 101 statewide education mills,
   (iv) 76.18% is distributed to Carter County to be distributed in proportion to current fiscal year mill levies in the taxing jurisdictions in which production occurs, excepting the 101 statewide education mills.
7. Under proposed law, for mines that produced bentonite before January 1, 2005, and on production occurring in CY 2006;
   (i) 90% of the tax is distributed as described in 6,
   (ii) 10% of the tax is distributed as described in 5.
8. Under current law, FY 2006 revenue will come from taxes on CY 2004 production, and FY 2007 revenue will come from taxes on CY 2005 production.
9. Under proposed law, FY 2006 revenue will come from taxes on CY 2005 production, and FY 2007 revenue will come from taxes on CY 2006 production.
10. Production in CY 2004 is assumed to be the average of production in CY 2000 through CY 2003. Production in CY 2005 and CY 2006 is assumed equal to CY 2004 production.
11. Under proposed law, taxable royalties would be taxed at a rate of 15%. The tax will be distributed as described in 5 through 7.
12. Under current law, bentonite tonnage is reported on a crushed and dried basis. In this form, the bentonite is composed of about 7% water and 93% dry matter. Based on information gleaned from bentonite producers' reports to the department of revenue, wet bentonite at the mine is composed of about 25% water and 75% dry matter. To convert from dry tons to wet tons, dry tons are multiplied by 1.24 (93% divided by 75%).
13. Four years of data reported by bentonite producers were analyzed. The data presented below are averages of four years of data. There are four bentonite mining operations in Montana: one large mine and one small mine in Carbon County, and two large mines in Carter County. Each mining operation consists of one or more pits in close geographic proximity to each other being operated by a single operator.

14. Under current law, the counties collect bentonite taxes annually. The state share (101 mills) is sent to the Department of Revenue for distribution into the special revenue fund (6 mills), and the general fund (95 mills). Distribution into these funds is accomplished shortly after the Department receives the revenue, so interest earned on the revenue in transition is slight.
15. Under proposed law, the Department of Revenue collects bentonite taxes semi-annually. The Department distributes the state share into the appropriate accounts, and the counties' shares to the counties within 45 days. The general fund would earn interest on the counties' shares for approximately 45 days. The amount of interest earned would be less than $7,000 per annum for FY 2006 and FY 2007, and was not calculated for the fiscal note.
16. Effects of proposed law on revenue in FY 2006 and FY 2007 are described in tables on pages 4 and 5.
17. Proposed law will not create any administrative costs for the Department of Revenue.

Department of Environmental Quality

18. The DEQ does not receive any funds related to the taxation of bentonite.
19. A change in the taxation of bentonite will not affect the workload for the regulatory responsibilities of the DEQ associated with bentonite mining and reclamation.

Office of Public Instruction

20. The drop in taxable values resulting from SB 276 causes the statewide taxable values to decrease by 0.3%, which will cause the statewide guarantee level for the guaranteed tax base aid to be reduced.
21. Of the three districts that currently have taxable values from bentonite and get taxable value decreases from SB 276, two will see increases in state guaranteed tax base aid as the taxable value of the district will fall substantially. The state guaranteed tax base aid would only partially offset the loss in revenue to the school district.
22. Districts that do not have taxable values related to bentonite, and currently receive guaranteed tax base aid would receive approximately a 0.3% decrease in the amount of guaranteed tax base aid as the state guarantee level will be lower. Approximately 70% of school districts receive guaranteed tax base aid and would be affected by this small reduction.
23. The net savings to the state from overall reduced guaranteed tax base aid payments will be $700 in FY 2006 and $263,000 in FY 2007. The $263,000 state savings will continue into future years.

Comparison of Effects on FY 2006 Revenue; Current Law Tax on Bentonite vs. Proposed Law Tax on Bentonite

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Net Proceeds

Government Entity	Current Law	Proposed Law	Difference
General Fund	$13,669	$29,052	$15,383
State 6-mill Levy	$863	$3,732	$2,869
Carbon County	$40,577	$5,365	($35,212)
Carter County	$0	$122,004	$122,004
Total	$55,109	$160,152	$105,043

Royalties

Government Entity	Current Law	Proposed Law	Difference
General Fund	$1,992	$595	($1,397)
State 6-mill Levy	$126	$76	($50)
Carbon County	$5,913	$110	($5,803)
Carter County	$0	$2,497	$2,497
Total	$8,031	$3,278	($4,753)

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Net Proceeds

Government Entity	Current Law	Proposed Law	Difference
General Fund	$464,713	$206,255	($258,458)
State 6-mill Levy	$29,350	$26,492	($2,858)
Carbon County	$0	$38,090	$38,090
Carter County	$994,330	$866,178	($128,152)
Total	$1,488,393	$1,137,015	($351,378)

Royalties

Government Entity	Current Law	Proposed Law	Difference
General Fund	$87	$26	($61)
State 6-mill Levy	$6	$3	($3)
Carbon County	$0	$5	$5
Carter County	$187	$111	($76)
Total	$280	$146	($134)

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Total Taxes

Government Entity	Current Law	Proposed Law	Difference
General Fund	$480,461	$235,927	($244,534)
State 6-mill Levy	$30,345	$30,304	($41)
Carbon County	$46,490	$43,570	($2,920)
Carter County	$994,517	$990,790	($3,727)
Total Taxes	$1,551,813	$1,300,591	($251,222)

Comparison of Effects on FY 2007 Revenue; Current Law Tax on Bentonite vs. Proposed Law Tax on Bentonite

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Net Proceeds

Government Entity	Current Law	Proposed Law	Difference
General Fund	$13,669	$29,470	$15,801
State 6-mill Levy	$863	$3,567	$2,704
Carbon County	$40,577	$17,312	($23,265)
Carter County	$0	$109,803	$109,803
Total	$55,109	$160,152	$105,043

Royalties

Government Entity	Current Law	Proposed Law	Difference
General Fund	$1,992	$603	($1,389)
State 6-mill Levy	$126	$73	($53)
Carbon County	$5,913	$354	($5,559)
Carter County	$0	$2,247	$2,247
Total	$8,031	$3,278	($4,753)

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Net Proceeds

Government Entity	Current Law	Proposed Law	Difference
General Fund	$464,713	$209,222	($255,491)
State 6-mill Levy	$29,350	$25,321	($4,029)
Carbon County	$0	$34,281	$34,281
Carter County	$994,330	$868,191	($126,139)
Total	$1,488,393	$1,137,015	($351,378)

Royalties

Government Entity	Current Law	Proposed Law	Difference
General Fund	$87	$27	($60)
State 6-mill Levy	$6	$3	($3)
Carbon County	$0	$4	$4
Carter County	$187	$111	($76)
Total	$280	$146	($134)

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Total Taxes

Government Entity	Current Law	Proposed Law	Difference
General Fund	$480,461	$239,322	($241,139)
State 6-mill Levy	$30,345	$28,964	($1,381)
Carbon County	$46,490	$51,952	$5,462
Carter County	$994,517	$980,353	($14,164)
Total Taxes	$1,551,813	$1,300,591	($251,222)

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FISCAL IMPACT:

	FY 2006 Difference	FY 2007 Difference
Expenditures:		
Local Assistance (schools/OPI)	($700)	($263,400)
Funding of Expenditures:		
General Fund (01)	$700	$263,400
Revenues:		
General Fund (01)	($244,534)	($241,139)
State Special Revenue (02)	($41)	($1,381)
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):		
General Fund (01)	($243,834)	$22,261
State Special Revenue (02)	($41)	($1,381)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:
Carbon County would lose $2,920 in revenue in FY 2006, and gain $5,462 in revenue in FY 2007. Carter County would lose $3,727 in revenue in FY 2006, and lose $14,164 in revenue in FY 2007. The effect on expenditures due to the shift of collection responsibility from county to state was not calculated.

Local schools would lose approximately $263,000 in state aid in FY 2007 and beyond.

LONG-RANGE IMPACTS:
Tax on production in CY 2007 from mines operating before January 1, 2005 would be allocated 80 percent as in assumption 6 and 20 percent as in assumption 5. The percent allocated as in assumption 6 would decrease 10 percent each year until all of the tax is allocated as in assumption 6.

In the transition from current law to proposed law, the payment of taxes for production after CY 2004 is accelerated one year and no taxes are collected on production in CY 2004. When the mines producing in CY 2004 cease operation, they will stop paying taxes one year earlier than under current law and pay one year's less total tax over the life of the mine.

TECHNICAL NOTES:
1. In section 10.2(c) of the amendments (page 7), revenue is distributed within Carbon County in proportion to mill levies in the taxing jurisdictions in which production occurred. The section does not specify on which year the mill levies are based. In section 10.2(d) of the amendments (page 7), revenue is distributed within Carter County based on current fiscal year mill levies.